THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.34067 OF 1997

DATED: 12-04-2007

Between:

K. V. Satyanarayana Charyulu

.. Petitioner

and

The General Manager (Personal), Syndicate Bank, Head Office, Manipal, Karnataka State and others.

.. Respondents

THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.34067 OF 1997

ORDER:

This writ petition is filed seeking a mandamus declaring the proceedings, dated 09.09.1996, of the 1st respondent, confirming the order of dismissal from service passed by the 2nd respondent, as arbitrary, illegal and violative of principles of natural justice; and consequently to direct the respondents to reinstate the petitioner into service with all consequential benefits.

It appears, the petitioner joined in the service of the respondent-bank as a clerk-cum-typist at Ananthasagaram branch, Nellore District with effect from 28.04.1984. In the month of June 1990, he was transferred to Butchreddy Palem branch and from there, in the month of December 1991, he was again transferred to Gudlur branch in Prakasam District. There he was placed under suspension, by an order dated 21.12.1992, on the allegation that he had misappropriated an amount of Rs.49,915/- tendered by eight customers of the Branch during the period from 30.04.1992 to 20.11.1992. After conducting a detailed enquiry into the matter, he was dismissed from service vide proceedings of the 2nd respondent, dated 30.01.1996, which were communicated to the petitioner on 12.02.1996. Aggrieved by the same, he preferred an appeal to the 1st respondent, but the same was dismissed vide proceedings dated 09.09.1996, confirming the order passed by the 2nd respondent. Aggrieved by the same, the present writ petition is filed.

The learned counsel for the petitioner has strenuously contended that the petitioner has been discriminated in the course of enquiry and in imposing punishment. One Surya Kumar, who maintained the ledgers and made entries and who was said to have been paid cash

by some customers, which was clearly brought out in the evidence, was let off and no enquiry has been conducted against him. In this regard, he has drawn attention of the Court to the findings recorded by the Enquiry Officer in his report, dated 03.06.1993, wherein it is stated that *"the entries in respect of other/remaining two transactions have been made by Sri K.Surya Kumar, Clerk. This fact has not been disputed by the Defence. Sri K. Surya Kumar also failed to follow the procedure as per MEX-38 in respect of these two cash transactions as they were also not accounted for in the cashier's scroll".* In all, there were eight transactions in which though amounts were collected from the customers, the entries were not made in the ledger book/cashier's scroll and this has came into light only when the audit was conducted. The total amount involved in the eight transactions was Rs.49,915/- and, so far as the petitioner is concerned, he was involved in six transactions. In other two transactions, one K. Surya Kumar was involved and the amount against those two transactions is Rs.10,400/-, but no action has been taken against him. This itself shows the discrimination against the petitioner during the enquiry and though the petitioner has asserted that there was discrimination and no action has been taken against Mr. K. Surya Kumar, Clerk, who was also involved into the similar misconduct and part of the eight transactions, there is no response from the respondents.

In the counter-affidavit filed by the respondents, except stating that all those grounds raised in the writ petition have no basis and are raised with a sole purpose of attacking the impugned enquiry proceedings and to convert this Court into Court of appeal over the orders passed by the appellate authority, the material allegations made by the petitioner were not denied.

Assuming that the amount involved in the six transactions is

Rs.39,000/- and odd and the amount involved in the two transactions, wherein Mr K.Surya Kumar was involved, is Rs.10,000/-, that itself would not mean that no action could have been taken against Mr K. Surya Kumar. The misconduct alleged against the petitioner and Surya Kumar is one and the same. No doubt, the petitioner was discriminated in this case, but, merely because there was some discrimination, he cannot escape from the rigour of disciplinary proceedings, since the misappropriation of the amount has already been proved against him.

Under these circumstances, generally, the matter requires to be remanded for reconsideration by the disciplinary authority to impose a punishment other than dismissal from service. But, as it is more than ten years since the petitioner has been dismissed from service, I deem it appropriate to give a quietus to this litigation at this stage.

In view of the above, I am of the considered opinion that the impugned punishment of dismissal from service is liable to be modified to that of compulsory retirement from service. Thus, the impugned order passed by the 1st respondent, confirming the order of dismissal from service, is accordingly modified insofar as the punishment is concerned. The petitioner is entitled for all the benefits that may accrue to him, in view of his compulsory retirement from service.

With the above modification, the writ petition is allowed to the extent indicated above. No costs.

C.V. RAMULU, J

12th of April, 2007.
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